

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

BRIAN J. ROBB,

Plaintiff,

v.

BARBARA A. LYNN, TR, *et al.*,

Defendants.

)
) CASE NO. 4:17CV1156
)
)

) JUDGE BENITA Y. PEARSON
)

) **MEMORANDUM OF OPINION**
) **ORDER** [NUNC PRO TUNC AS OF
) SEPTEMBER 7, 2017]

On June 2, 2017, Plaintiff Brian Robb filed an Application to Confirm Arbitration Award. [ECF No. 1](#). The Court hereby confirms the arbitration award of the Financial Industry Regulatory Authority Dispute Resolution (“FINRA-DR”) issued on or about August 12, 2011 against Defendant Barbara A. Lynn in FINRA-DR Case No. 10-02870.

I: BACKGROUND

Plaintiff was the defendant in an arbitration before FINRA-DR, arbitration No. 10-02870, captioned *Barbara A. Lynn, and Barbara A. Lynn, Trustee of the Barbara A. Lynn Trust, under Agreement dated November 10, 2008 vs. Stifel Nicolaus & Company and Brian J. Robb, et al. FINRA-DR*. During this arbitration, Plaintiff submitted an application for expungement of records maintained by the Central Registration Depository (“CRD”) of FINRA. On August 12, 2011, FINRA-DR issued an arbitration award. The award included the recommendation of expungement of any record of the charges brought against Plaintiff in the arbitration that the CRD maintained. Now, Plaintiff seeks a judgment entry confirming the arbitration award.

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II: STANDARD OF REVIEW

Judicial review of an arbitrator's decision is "very narrow." [*Lattimer-Stevens Co. Vv. United Steelworkers of America, AFL-CIO, Dist. 27, Sub-Dist. 5*, 913 F.2d 1166, 1169 \(6th Cir. 1990\)](#). Indeed, it is "one of the narrowest standards of judicial review in all of American jurisprudence." [*Id.*](#)

A federal court "must grant [an order confirming an arbitral award] unless the award is vacated, modified, or corrected." [*9 U.S.C. § 9*](#). In fact, "[t]he Federal Arbitration Act presumes that arbitration awards will be confirmed." [*Dawahare v. Spencer*, 210 F.3d 666, 669 \(6th Cir. 2000\)](#) (citing [*9 U.S.C. § 9*](#)). "Courts thus do not sit to hear claims of factual or legal error by an arbitrator as an appellate court does in reviewing decisions of lower courts. [. . .] [A]s long as the arbitrator is even arguably construing or applying the contract and acting within the scope of his authority, that a court is convinced he committed serious error does not suffice to overturn his decision." [*United Paperworkers Int'l Union v. Misco, Inc.*, 484 U.S. 29, 38 \(1987\)](#). Under the express terms of the FAA, an award may be vacated only in the following instances:

- (1) where the award was procured by corruption, fraud, or undue means;
- (2) where there was evident partiality or corruption in the arbitrators, or either of them;
- (3) where the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced; or
- (4) where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.

[*9 U.S.C. § 10*](#).

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III: DISCUSSION

In this case, the parties arbitrated a dispute, and on August 12, 2011, FINRA-DR issued an award that included recommending the expungement of records maintained by the CRD as related to the charges brought against Plaintiff in the arbitration. [ECF No. 1-2](#). Prior to the arbitration, the parties entered into a submission agreement, whereby a judgment could be entered upon the arbitration award in any court of competent jurisdiction. [ECF No. 1-1](#).

Based on the narrow standard under which the Court reviews petitions to confirm arbitration awards, the Court hereby confirms the arbitration award of the “FINRA-DR” issued on or about August 12, 2011 against Defendant Barbara A. Lynn in FINRA-DR Case No. 10-02870.¹

During the status conference held on September 6, 2017, the Court indicated that it would issue judgment based on the record established. *See* Minutes dated Sept. 6, 2017. Therefore, the Court’s opinion is *nunc pro tunc* as of September 6, 2017.

The Court will issue a separate Judgment Entry.

IT IS SO ORDERED.

October 30, 2017
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge

¹ FINRA-DR Rule 2080 requires parties seeking expungement relief to name FINRA-DR as an additional party unless it waives the requirement. FINRA-DR has waived that requirement as to this matter. *See* [ECF No. 1-3](#).